IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.8722 OF 2004

Manu Hira Solanki .... Petitioner
Vs.
N.M. Wadia Charities & Ors. .... Respondents

Shri M.P. Vashi for the Petitioner.

Shri N.V. Gangal for the Respondents.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: NOVEMBER 03, 2004

P.C:

Heard. The petitioner challenges the judgment and order dated 31-8-2004 passed by the Labour Court, Mumbai. By the impugned order the Labour Court, while partly allowing the complaint filed by the petitioner, has directed the payment of compensation in lieu of reinstatement. The grievance of the petitioner is that there were no serious charges and there was no evidence led even in support of the charges against the petitioner so as to deny the right of reinstatement to the petitioner. Upon hearing the learned Advocate for the petitioner and on perusal of the records, it is seen that the Labour Court, on analysis of the evidence on record, has arrived at the finding that the evidence apparently discloses the petitioner to be a chronic alcoholic, duly certified by a doctor from the K.E.M.

Hospital. Though it was sought to be contended that there was no witness produced to establish the allegation of the petitioner having attended to the duty under the influence of liquor, both the witnesses examined on behalf of the respondents have stated that the petitioner used to attend to his duties under the influence of liquor. In fact, witness Khushru Eresh Kapadia, who looks after the work of cleanliness along with the Estate Manager of the colony, has deposed that the petitioner was a habitual drunkard due to which he used to become violent and rude when he was on duty of cleanliness. The Labour Court, on analysis of the evidence, has held that the petitioner even while on duty used to be under the influence of liquor and in the process used to misconduct himself and considering the same, applying the law laid down by the Apex Court in the matter of **O.P. Bhandari v. India Tourism Development Corporation Ltd., and others,** reported in 1986 (69) F.J.R. 493, has directed the payment of compensation in lieu of reinstatement. Considering the materials on record, the finding cannot be held to be either perverse or arbitrary and the same is clearly borne out from the records. It was also sought to be contended that the petitioner is a handicapped person, besides being a Harijan. Once it is disclosed that the petitioner used to attend to his duties under the influence of liquor and on that count his services were

sought to be terminated, yet taking lenient view the Labour Court ordered the payment of compensation to the petitioner, I do not find this to be a fit case for interference in writ jurisdiction under Article 227 of the Constitution of India. Hence the petition fails and is rejected.